

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF CALEB SALYERS,  
NOTICE OF APPARENT VIOLATION AND  
INTENT TO ASSESS FORFEITURE.

CASE NO. 19-2152-TR-CVF  
(OH3251020169D)

## ENTRY

Entered in the Journal on February 23, 2022

### I. SUMMARY

{¶ 1} The Commission grants Staff's motion to dismiss due to the Respondent's payment in full of the demanded forfeiture.

### II. DISCUSSION

{¶ 2} R.C. 4923.04(A)(1) mandates that the Commission adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. Pursuant to Ohio Adm.Code 4901:2-5-03(A), the Commission adopted the Federal Motor Carrier Safety Regulations, published in the Code of Federal Regulations, for the purpose of governing transportation by motor vehicle in the state of Ohio. Further, R.C. 4923.99 authorizes the Commission to assess a civil forfeiture of up to \$25,000 per day, per violation, against any person who violates the safety rules adopted by the Commission.

{¶ 3} On September 24, 2019, Staff served a notice of preliminary determination (NPD) upon Caleb Salyers (Respondent) in accordance with Ohio Adm.Code 4901:2-7-12, alleging a violation of the Commission's transportation regulations. On October 24, 2019, Staff served a second NPD upon Respondent. Thereafter, Respondent paid the full amount of the forfeiture described in the NPDs.

{¶ 4} On December 23, 2019, the Commission received an email from Respondent, wherein Respondent requested that his case be reopened. The attorney examiner, at that time, recognized Respondent's correspondence as a request for an administrative hearing in accordance with Ohio Adm.Code 4901:2-7-13.

{¶ 5} By Entry dated February 10, 2020, the attorney examiner scheduled a hearing in this matter for March 27, 2020.

{¶ 6} On February 27, 2020, Staff filed a motion to dismiss the case based on Respondent's payment in full of the forfeiture assessed against him. As described by Staff, pursuant to Ohio Adm.Code 4901:2-7-22(B), full payment of a forfeiture constitutes an admission of the violation and shall terminate all further proceedings.

{¶ 7} On March 9, 2020, Respondent served a request for waiver of certain Ohio Adm.Code rules upon Staff. Respondent's request for waiver was filed in the case docket on June 11, 2020. In his filing, Respondent describes that he paid the NPD forfeiture amount after receiving a second notice from the Commission outlining the time that was allotted for either remitting payment or seeking to appeal the forfeiture. He further described that, prior to remitting the forfeiture payment, he pursued payment of the forfeiture from his employer.

{¶ 8} By Entry dated March 13, 2020, the attorney examiner postponed the hearing scheduled for March 27, 2020.

{¶ 9} The Commission finds that this case should be dismissed, and the related docket should be closed. We find that Respondent's admission to paying the full forfeiture amount described in the two NPDs that he received terminates further action in this case. In reaching this conclusion, we deny Respondent's request for waiver of Ohio Adm.Code rules 4901:2-7-22, which provides, in relevant part, that "full payment of the forfeiture demanded \* \* \* constitutes an admission of the occurrence of the violation and shall terminate all further proceedings \* \* \* regarding that violation."

{¶ 10} We find that Respondent fails to demonstrate sufficient cause for his waiver request. Respondent describes that, in response to his receipt of the initial NPD, he pursued his employer for the forfeiture payment. Further, it was not until he received the second NPD notice that he acted to directly pay the forfeiture amount, rather than requesting the

mitigating circumstances conference that was described to him in the NPD. Respondent's actions do not constitute excusable neglect on his part. Based on his failure to timely respond to the first NPD, and subsequent decision to pay the forfeiture rather than pursuing a conference with Staff, we find that Respondent's actions reasonably result in his admission of the violation at issue. Accordingly, we decline his waiver request.

### III. ORDER

{¶ 11} It is, therefore,

{¶ 12} ORDERED, That this case be closed. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon all parties of record.

COMMISSIONERS:

*Approving:*

Jenifer French, Chair

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

MLW/IMM/hac

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**Case No(s). 19-2152-TR-CVF**

Summary: Entry granting Staff's motion to dismiss due to the Respondent's payment in full of the demanded forfeiture. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio